



SCOTT WALKER
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STATE OF WISCONSIN

P.O. Box 7863
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January 3, 2011

The Honorable J.B. Van Hollen
Attorney General
114 East State Capitol
Madison, Wisconsin
HAND DELIVERED

Dear Attorney General Van Hollen:

On March 23, 2010, President Obama signed into law the federal health care bill otherwise known as the Patient Protection and Affordable Care Act (the "Act"). One of the significant provisions of the Act is the "individual mandate." For the first time in American history, the federal government is now going to require Americans to purchase a product—here, a government-approved health insurance plan. Americans failing to comply with this decree will be subject to a financial penalty. Other provisions of the Act raise additional questions.

Simply put, the requirements of the Act are unprecedented, and in my view, unconstitutional. More than 20 states and several individuals and private groups have recognized this and initiated lawsuits challenging various provisions of the Act. The primary issue in these suits is whether the Constitution grants Congress the authority to require Americans to purchase a certain product or service. Suits brought by the states raise additional questions about the Act's burden on state sovereignty.

At stake in this debate is nothing less than the foundational principle, enshrined in our Constitution, that the federal government is one of limited and enumerated powers. Like most Wisconsinites, I still believe in this principle. It is clearly in the interest of the State of Wisconsin to ensure that the federal government does not exceed the boundaries outlined in the Constitution, thereby upsetting the balance of power between the state and federal governments.

I know you share these same concerns, and in March of 2010, you asked then-Governor Doyle and the legislative leadership for authority to challenge the Act on behalf of the State of Wisconsin. That request was denied.

Pursuant to Wis. Stat. § 165.25(1m), I now authorize you to commence a legal challenge to the Act on behalf of the State and people of Wisconsin. Taking into account the interests of our State and the overarching goal of defending the Constitution, you may do so in the forum and on the legal grounds you deem appropriate—whether by joining an existing action, participating as amici, or by initiating a new action.

The significance of this legal challenge cannot be underestimated. As you know, the United States District Court for the Eastern District of Virginia recently declared the individual mandate unconstitutional. This is encouraging news for those of us seeking preserve the meaningful limits on federal power conceived by our founders. Thank you for standing with me and standing up for our great State in this important endeavor.

Sincerely,



Scott Walker
Governor

cc: The Honorable Michael Ellis, Senate President
The Honorable Jeff Fitzgerald, Speaker of the Assembly
The Honorable Scott Fitzgerald, Senate Majority Leader
The Honorable Scott Suder, Assembly Majority Leader
The Honorable Mark Miller, Senate Minority Leader
The Honorable Peter Barca, Assembly Minority Leader